

ORDINANCE NO. _____, SERIES 2007

AN ORDINANCE REPEALING SECTION 36.25 OF THE LOUISVILLE METRO CODE OF ORDINANCES (LMCO) RELATING TO FISCAL SUPPORT OF FIRE PROTECTION DISTRICTS AND AMENDING AND RE-ENACTING CERTAIN SUB-SECTIONS OF LMCO SECTION 36.26 RELATING TO TRENCH RESCUE COST RECOVERY AND RE-ENACTING SECTION 36.98 RELATING TO SEVERABILITY.

Sponsored By: Councilmen Peden, Downard and Blackwell

BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:

SECTION I: LMCO Section 36.25 is hereby repealed in its entirety as follows:

~~§ 36.25 FISCAL SUPPORT OF FIRE PROTECTION DISTRICTS.~~

- ~~(A) The Jefferson County Fire Alliance will develop each year a plan for improvements in the delivery of fire protection to the citizens of Jefferson County and present a copy of such annual plan each year to the Metro Council 60 days preceding the Metro Government's fiscal year starting date of July 1.~~
- ~~(B) Based upon available funds as determined in the annual Metro Government budget process, 95% of the sum budgeted each fiscal year by Metro Council for improvement of fire protection in Jefferson County will be appropriated for use in accordance with the aforesaid annual plan developed by the Jefferson County Fire Alliance.~~
- ~~(C) Five percent of the funds allocated as a part of the Metro Government Budget for the improvement of fire protection within Jefferson County will be allotted to the fire protection district which has the least overall funding, as established by the annual Fire Protection Districts' Audit Report filed with the Metro Council~~

~~Clerk. This said 5% is in addition to the other funding allocated to, or provided for, said fire protection district from the Metro Government Budget.~~

SECTION II: LMCO Section 36.26 is hereby amended and re-enacted as follows:

§ 36.26 ~~TRENCH RESCUE~~ SPECIAL OPERATIONS COST RECOVERY.

- (A) For the purposes of this Section, "special operations" shall include but not be limited to structural collapse rescues, confined space rescues, elevator rescues, water rescues, high and low angle rescues, trench rescues and recovery services.
- (B) A fire department or suburban fire protection district may recover its reasonable and necessary costs and expenses which have accrued, or been expended for special operations, trench rescue and recovery services, whether said services were rendered within or without the service area of said district or department.
~~Fire Protection District.~~
- (C) "Recoverable costs and expenses", as that term is used herein, shall include the cost of materials used, rental of equipment, expense of equipment repair or replacement, and the charges, taxes, costs, and expense of providing personnel at the site wherein a special operation ~~trench rescue~~ was necessary. The authority conferred herein is in addition to, and not in derogation of, any existing authority for such recovery, whether conferred by statute, administrative regulation, by operation of common law, or otherwise. This authority may be exercised by any fire department or suburban fire protection district providing such special operation ~~trench rescue~~ services to recover its recoverable costs

and expenses not otherwise specifically paid or for which specific provision has been made as a part of its annual fees or tax receipts.

- (D) Recoverable costs and expenses may be recovered by agreement between the fire department or suburban fire protection district and the person or entity to whom the special operations ~~trench-rescue~~ services were rendered, i.e., the contractor, or individual, conducting or responsible for the activity that led to the requirement of the special operations ~~such trench construction~~, but if such agreement cannot be reached within 90 days after having provided said entity with a statement of such recoverable costs and expenses, an action for recovery of said costs and expenses may be initiated by the fire department or suburban fire protection district in the Jefferson Circuit/District Court of competent jurisdiction for civil claims generally.
- (E) If any section, subsection, sentence or clause of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, then such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION III: LMCO Section 36.98 is hereby re-enacted as follows:

§ 36.98 SEVERABILITY.

If any provision of this chapter as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

SECTION IV: This Ordinance shall take effect upon its passage and approval.

Kathleen J. Herron
Metro Council Clerk

Rick Blackwell
President of the Council

Jerry E. Abramson
Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Irv Maze
Jefferson County Attorney

BY: _____